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06. 2. - 3

Date

27.01.06

Reference	Application No./Patent No. 04787751.9 - 2203 PCT/JP2004013068
Applicant/Proprietor Sumitomo Mitsubishi Silicon Corporation	

Entry into the European phase before the European Patent Office

These notes describe the procedural steps required for entry into the European phase before the European Patent Office (EPO). You are advised to read them carefully: failure to take the necessary action in time can lead to your application being deemed withdrawn.

1. The above-mentioned international patent application has been given European application No. **04787751.9**.
2. Applicants **without** a residence or their principal place of business in an EPC contracting state may themselves initiate European processing of their international applications, provided they do so before expiry of the 31st month from the priority date (see also point 6 below).

During the European phase before the EPO as designated or elected Office, however, such applicants must be represented by a professional representative (Arts. 133(2) and 134(1), (7) EPC).

Procedural acts performed after expiry of the 31st month by a professional representative who acted during the international phase but is not authorised to act before the EPO have no legal effect and therefore lead to loss of rights.

Please note that a professional representative authorised to act before the EPO and who acted for the applicant during the international phase does not automatically become the representative for the European phase. Applicants are therefore strongly advised to appoint in good time any representative they wish to initiate the European phase for them; otherwise, the EPO has to send all communications direct to the applicant.

3. Applicants **with** a residence or their principal place of business in an EPC contracting state are not obliged to appoint, for the European phase before the EPO as designated or elected Office, a professional representative authorised to act before the EPO.
However, in view of the complexity of the procedure it is recommended that they do so.
4. Applicants and professional representatives are also strongly advised to initiate the European phase using EPO Form 1200 (available free of charge from the EPO). This however is not compulsory.



5. **To enter the European phase before the EPO, the following acts must be performed.**
(N.B.: Failure validly to do so will entail loss of rights or other adverse legal consequences.)
- 5.1 If the EPO is acting as **designated** or **elected** Office (Arts. 22(1)(3) and 39(1) PCT respectively), applicants must, within 31 months from the date of filing or (where applicable) the earliest priority date:
- a) Supply a translation of the international application into an EPO official language, if the International Bureau did not publish the application in such a language (Art. 22(1) PCT and Rule 107(1)(a) EPC).
If the translation is not filed in time, the international application is deemed withdrawn before the EPO (Rule 108(1) EPC).
This loss of rights is deemed not to have occurred if the translation is then filed within a two-month grace period as from notification of an EPO communication, provided a surcharge is paid at the same time (Rule 108(3) EPC).
 - b) Pay the national basic fee (EUR 160,00) and, where a supplementary European search report has to be drawn up, the search fee (EUR 960,00 ; Rule 107(1)(c) and (e) EPC).
 - c) If the time limit under Article 79(2) EPC expires before the 31-month time limit, pay the designation fee (EUR 75,00) for each contracting state designated (Rule 107(1)(d) EPC).
 - d) If the time limit under Article 94(2) EPC expires before the 31-month time limit, file the written request for examination **and** pay the examination fee (EUR 1430,00 ; Rule 107(1)(f) EPC).
 - e) Pay the third-year renewal fee (EUR 380,00) if it falls due before expiry of the 31-month time limit (Rule 107(1)(g) EPC).
- If the fees under (b) to (d) above are not paid in time, or the written request for examination is not filed in time, the international application is deemed withdrawn before the EPO, or the contracting-state designation(s) in question is (are) deemed withdrawn (Rule 108(1) and (2) EPC). However, the fees may still be validly paid within a two-month grace period as from notification of an EPO communication, provided the necessary surcharges are paid at the same time (Rule 108(3) EPC). For the renewal fee under (e) above, the grace period is **six** months from the fee's due date (Article 86(2) EPC).
- 5.2 If the application documents on which the European grant procedure is to be based comprise more than ten claims, a claims fee is payable within the 31-month time limit under Rule 107(1) EPC for the eleventh and each subsequent claim (Rule 110(1) EPC). The fee can however still be paid within a one-month grace period as from notification of an EPO communication pointing out the failure to pay (Rule 110(2) EPC).
6. If the applicant had a representative during the application's international phase, the present notes will be sent to the representative, asking him to inform the applicant accordingly.

All subsequent communications will be sent to the applicant, or - if the EPO is informed of his appointment in time - to the applicant's European representative.



Date

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7. For more details about time limits and procedural acts before the EPO as designated and elected Office, see the EPO brochure

How to get a European patent
Guide for applicants - Part 2
PCT procedure before the EPO - "Euro-PCT"

This brochure, the list of professional representatives before the EPO, Form 1200 and details of the latest fees are now all available on the Internet under

<http://www.european-patent-office.org>

RECEIVING SECTION



整理番号:

発送番号:111772 発送日:平成17年11月22日

1/E

出願番号通知

平成17年11月18日

特許庁長官

出願人 302006854
株式会社SUMCO 様
国内書面差出日 平成17年11月15日

あなたの国際出願に基づく出願の日本国内出願番号は記載の通りです。

国際出願番号

出願番号

PCT/J P 2004/013068 特願2005-513881

以 上

お願い: この出願番号通知を受け取った後に特許庁に対しこの出願に関して書類その他の物件を提出する場合は【事件の表示】の欄に上記の国内出願番号を表示してください。

不明な点は国際出願課指定官庁へ問い合わせください。

電話 03(3581)1101 内線2644 ファクシミリ 03(3501)0659

受領書

平成16年 9月 8日
特許庁長官

識別番号 100094215
氏名(名称) 安倍 逸郎

様

以下の書類を受領しました。

項番	書類名	整理番号	受付番号	提出日	出願番号通知(事件の表示)
1	国際出願	2004M017	50401525414	平16. 9. 8	PCT/JP2004/ 13067
2	国際出願	2004M018	50401525418	平16. 9. 8	PCT/JP2004/ 13068
3	国際出願	2004M019	50401525424	平16. 9. 8	PCT/JP2004/ 13069
4	国際出願	2004M021	50401525428	平16. 9. 8	PCT/JP2004/ 13070

以 上